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<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	<b>Application Number</b>	10/729,309	
	<b>Filing Date</b>	12/05/2003	
	<b>First Named Inventor</b>	Gregory M. Dobbs	
	<b>Group Art Unit</b>	3743	
	<b>Examiner Name</b>	Allen J. Flanigan	
<b>Total Number of Pages in This Submission</b>	13	<b>Attorney Docket Number</b>	965-009 Con2

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Response to Restriction Requirement (, and Return mailroom postcard.
<b>Remarks</b>		<b>The Commissioner is authorized to charge any additional fees to Deposit Account No. 50-0289.</b>
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
<b>Firm and Individual name</b>	Wall Marjama & Bilinski LLP Joseph B. Milstein, Ph.D. Reg. No. 42,897
<b>Signature</b>	
<b>Date</b>	December 2, 2004

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**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appl. No. : 10/729,309  
Applicant : Gregory M. Dobbs, et al.  
Filed : December 5, 2003  
Title : A PLATE-TYPE HEAT EXCHANGER  
TC/A.U. : 3743  
Examiner : FLANIGAN, ALLEN J.  
Docket No. : 965-009CON2  
Customer No. : 20874

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO RESTRICTION REQUIREMENT**

In response to the Restriction Requirement mailed from the United States Patent and Trademark Office on November 2, 2004, Applicants elect the following generic claim and species claims depending therefrom, so as to be considered to have responded substantively to the Restriction Requirement:

generic claim 37 directed to an energy recovery ventilator comprising a separator comprising an at least partially sulfonated random hydrocarbon copolymer ionomer membrane;

dependent claim 38 (limiting membrane to be permeable to water vapor);

dependent claim 40 (limiting gas streams to counterflow relationship);

dependent claim 41 (adding limitation of a three-dimensional structure disposed in at least one passageway); and

dependent claim 43 (three-dimensional structure of claim 41 comprises pyramids).

Applicants respectfully wish to point out that they believe that generic claim 37 is allowable. Applicants respectfully point out that, in such an instance, all claims depending from an allowable generic claim are also allowable. Hence, in the event that generic claim 37

Response to Restriction Requirement  
USSN 10/729,309  
Attorney Docket No. 965-009CON2  
Inventor: DOBBS et al.  
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is deemed allowable, claims 39, 42, and 44-52 are also to be considered as elected claims, and in this regard, Applicants traverse the Restriction Requirement.


Applicants believe that no fees are due on account of the submission of this paper. However, if Applicant is incorrect and fees are due, the Director is hereby authorized to charge any fees associated with this communication to Deposit Account No. 50-0289.

Applicants attach hereto a copy of all claims presently pending in the application. Claims 37-52 were originally present at the time the present application was filed. Applicants believe the pending claims of the above-captioned application are in allowable form and are patentable over the prior art of record. Applicants respectfully request consideration of the pending claims and a prompt Notice of Allowance thereon.

Please direct any questions or comments to Joseph B. Milstein at (315) 425-9000.

Respectfully submitted,

WALL MARJAMA & BILINSKI LLP



Joseph B. Milstein, Ph.D.  
Reg. No. 42,897  
Telephone: (415) 425-9000, Ext. 239

Date: December 2, 2004

Customer No.: 20874  
Wall Marjama & Bilinski LLP  
101 South Salina Street  
Suite 400  
Syracuse, NY 13202